

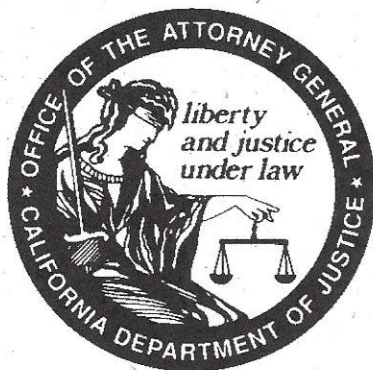
REQUEST FOR JUDICIAL NOTICE

EXHIBIT J

UNLAWFUL DISCRIMINATION

Your Rights and Remedies

Civil Rights Handbook



August 2001
Third Edition
California Attorney General's Office

UNLAWFUL DISCRIMINATION: YOUR RIGHTS AND REMEDIES, Third Edition,*
was prepared under the supervision of the Office of the Attorney General, State of California,
Public Rights Division, Civil Rights Enforcement Section.

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UNLAWFUL DISCRIMINATION: YOUR RIGHTS AND REMEDIES,
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|---|--------------------------------|
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| Office of Immigrant Assistance, Toll Free Number: | (888) 587-0557 (in California) |

* Much of the material in this Third Edition is an update of the First Edition, Louis Verdugo, Jr. and Henry Torres, Jr., Deputy Attorneys General, writers and editors, and Second Edition, Kathleen W. Mikkelson, Deputy Attorney General, writer and editor, and Marian M. Johnston, Supervising Deputy Attorney General, editor.

The addresses, telephone numbers and web sites of the DFEH district offices are listed in the next chapter.

If you choose to file a complaint with the DFEH, you must do so no later than one year after your Ralph Act rights have been violated. If your claim is accepted, the DFEH will investigate your claim and will attempt to settle your case. If settlement is not achieved, you may file a lawsuit, or the DFEH may institute an administrative action with the Fair Employment and Housing Commission (FEHC), which conducts hearings and issues administrative decisions. If you choose to file a private lawsuit, either on your own or after filing a complaint with the DFEH, you may wish to retain your own attorney.

Where there is a reasonable basis to believe that a person or group of persons is engaged in a pattern or practice of violating rights secured by the Ralph Act, the Attorney General, your local district attorney and city attorney are all authorized to file a lawsuit immediately to protect the rights secured by this Act.⁵ If you have evidence of such a pattern or practice, you should contact the Attorney General Office's Public Inquiry Unit at the telephone number or address noted at the beginning of this pamphlet, your local district attorney, or your local city attorney.

Persons who are successful in enforcing their Ralph Act rights in court are entitled to awards for money lost and emotional distress, as well as a civil penalty of \$25,000, and reasonable attorney fees.⁶ Court orders banning the unlawful behavior and a civil penalty for the victim can be obtained by a victim, the Attorney General, or your local district or city attorney if a violation of the Ralph Act can be established in court.⁷

The Bane Civil Rights Act

The Bane Civil Rights Act, Civil Code section 52.1 and Penal Code section 422.6 et seq., prohibits violence or the threat of violence based on grounds such as race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age disability or position in a labor dispute.

⁵Civil Code section 52, subdivision (c).

⁶Civil Code section 52, subdivision (b).

⁷Legislation effective January 1, 2001, clarified that an award of a civil penalty of \$25,000 to the person denied the right provided by Civil Code section 51.7 (Ralph Act) is authorized in any action brought by the person denied the right, or by the Attorney General, a district attorney or a city attorney. (Civ. Code, § 52, subs. (b)(2), (c)(3) .) Code of Civil Procedure section 527.6 provides alternative methods for securing injunctive relief in situations involving racial, ethnic, religious, and minority violence, or other forms of harassment where substantial emotional distress is caused to the victim. Code of Civil Procedure section 527.7 provides that an injunction can be obtained against a group which is meeting and taking substantial action in furtherance of the commission of acts of violence if it can be shown that the group will probably engage in those acts in the future.

Civil Code section 52.1 protects all people within this state from interference with their free exercise or enjoyment of the rights guaranteed them by the state or the United States. If the interference is by means of speech alone, however, no remedy will be available to you under the Bane Act unless it can be shown that the speech itself threatened violence against you; that you reasonably feared violence would be committed against you or your property because of the speech; and that the person threatening violence had the apparent ability to carry out the threat.⁸

If anyone interferes with your rights under this law⁹ by threats, intimidation, or coercion, you may be able to get a court order banning this behavior and be awarded for money lost and emotional distress, as well as a \$25,000 civil penalty and attorney's fees.¹⁰ The Attorney General, your local district attorney or city attorney may also seek court orders to ban the unlawful behavior and other appropriate relief.¹¹

If you believe you have a claim under this Act, you may either file a private lawsuit or contact the Attorney General's Office, your local district attorney or city attorney. The court may grant an injunction prohibiting further intimidating or coercive behavior. Any violation of this order is a misdemeanor and may result in fines or imprisonment.¹² If a judgment is awarded in your favor in a private lawsuit, you may receive reasonable attorney's fees as well.¹³

Penal Code section 422.6. In addition to civil remedies, the Bane Act establishes criminal remedies. Penal Code section 422.6, subdivision (a), makes it unlawful to, by force or threat of force, oppress, injure, intimidate, or interfere with any other person in the free exercise or enjoyment of any right secured by the state or federal government because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation or because it is perceived that the victim has one or more of these characteristics. If the force or threat of force is through speech alone, it must be shown that the speech itself threatened violence against a specific person or group of persons, and that the accused had the apparent ability to carry out the violence.

Subdivision (b) of this Penal Code Section prohibits the knowing destruction of real or personal property of any other person in order to intimidate or interfere with the free exercise or enjoyment of rights provided under federal and state constitutions and laws because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation. Violations of these Penal Code sections are punishable by a jail term and/or a fine.

⁸Civil Code section 52.1, subdivision (j).

⁹This includes the right to be free from racial, ethnic, religious, gender, age, disability, sexual orientation, and political violence established by the Ralph Act.

¹⁰Civil Code sections 52.1, subdivision (b), and 52, subdivision (b).

¹¹Civil Code section 52.1, subdivisions (a), (c)(3).

¹²Civil Code section 52.1, subdivision (i), and Penal Code section 422.9.

¹³Civil Code section 52.1, subdivision (h).